



Wellington City Council Fire and Smoke Nuisance Bylaw 2025

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1. Preamble

This bylaw is made under section 145 of the Local Government Act 2002 and section 64(1)(a) of the Health Act 1956.

This bylaw was adopted on 11 September 2025.

Nothing in this bylaw derogates from the Fire and Emergency New Zealand Act 2017 or any regulations or notice made under that Act. To the extent that it is covered by that Act, nothing in this bylaw:

- relates to the removal of fire hazards; or
- declares prohibited or restricted fire seasons; or
- prohibits or otherwise regulates or controls the lighting of fires in open air; or
- relates to the prevention of the spread of fires involving vegetation.

These fire safety measures are regulated by Fire and Emergency New Zealand (FENZ) pursuant to the Fire and Emergency Act 2017.

Explanatory note

Fire safety rules, fire ban information, fire season status, confirmation of whether a fire permit is required, and instructions for how to apply for a permit can be found on the FENZ websites

www.fireandemergency.nz and www.checkitsalright.nz, or by contacting FENZ on 0800 658 628.

Fires in public places can also be managed under the Council's Public Places Bylaw, which allows the Council to set conditions or restrictions for the use of public places.

2. Commencement

This bylaw comes into force on 20 October 2025.

3. Purpose

The purpose of this bylaw is to protect the public from the nuisance arising from fire and smoke, in regard to aspects other than fire safety.

4. Revocation and savings

4.1 This bylaw revokes and replaces Part 3: Fire and Smoke Nuisance of the Wellington City Consolidated Bylaw 2008.

4.2 Any resolution made under the Wellington City Consolidated Bylaw 2008, before this bylaw came into force, continues in force under this bylaw until altered or revoked by further resolution.

4.3 The revocation of existing bylaws does not extinguish any existing cause of action.

4.4 All bylaws revoked shall remain in force and effect so far as they relate to anything done or any offence committed, penalty incurred, prosecution or proceeding commenced, right or liability accrued, licence issued, notice given, or order made, under or against any of the provisions of that bylaw before the coming into force of this bylaw.

4.5 All Council officers appointed under or for the purpose of any revoked bylaw, and holding office at the time of the coming into operation of this bylaw, shall be deemed to have been appointed under this bylaw.

5. Interpretation

In this bylaw, unless the context otherwise requires:

“Authorised officer” means an enforcement officer appointed under the Local Government Act 2002, an environmental health officer appointed under the Health Act 1956, or any other person authorised by Wellington City Council for the purposes of administering and enforcing this bylaw.

“Nuisance or risk” means an unreasonable inconvenience or risk, actual or potential, and is at the discretion of an authorised officer following an assessment. This includes, but is not limited to, nuisances defined in sections 29(m) and 29(n) of the Health Act 1956.

“Owner” has the meaning given by the Local Government Act 1974.

“Person” has the meaning given by the Legislation Act 2019 and may refer to an individual or a company.

“Reasonable steps” includes but is not limited to issuing a direction to extinguish the fire and/or extinguishing the fire.

“The Council” means Wellington City Council.

6. Nuisance or health and safety risk from fires or smoke

6.1 No Person may light, or allow to remain lit, any fire that creates a Nuisance, health risk, or safety risk to any person or property.

6.2 No Person may permit smoke, noxious fumes or any other matter to be emitted in such a way as to create a Nuisance, health risk, or safety risk to any person or property.

6.3 If an Authorised Officer is of the opinion that clause 6.1 or 6.2 has been breached, or is likely to be breached, the Authorised Officer may take Reasonable Steps to abate, or cause to be abated, the Nuisance or risk.

6.4 To avoid doubt, nothing in this bylaw applies to a fire safety risk to which the Fire and Emergency New Zealand Act 2017, or regulations made under that Act, applies.

7. Offences and cost recovery

7.1 Every Person commits an offence who:

- a. breaches clause 6.1 or 6.2 of this bylaw; or
- b. fails to comply with a direction of an Authorised Officer issued under clause 6.3 of this bylaw.

7.2 The continued existence of any work, building, land, premises or thing in such a state or form as to be in contravention of any provision of this bylaw shall be deemed to be a continuing offence under this bylaw.

7.3 The Council may recover any costs it incurs as a result of acting under this bylaw. Costs are recoverable from:

- a. the Owner of the property on or from which the nuisance or risk originated; and/or
- b. any Person who caused the nuisance or risk.

8. Penalties

8.1 A Person who is convicted of an offence against this bylaw may be liable to a penalty under the Local Government Act 2002 or the Health Act 1956.

